

## **BRIEF BACKGROUND NOTES ON AGEING ISSUES LEADING UP TO THE ESTABLISHMENT OF THE OPEN-ENDED WORKING GROUP ON AGEING, AND ITS WORK**

### **Brief History**

At the time of the adoption of the Universal Declaration on Human Rights in 1948, the question of the rights of older persons was first raised by Argentina, but the matter was referred to the Economic and Social Council. There is no reference to age discrimination in the UDHR.

Ageing issues are addressed by the Department of Economic and Social Affairs (<https://www.un.org/development/desa/ageing/>), the Office of the High Commissioner for Human Rights (<https://www.ohchr.org/EN/Issues/OlderPersons/Pages/OlderPersonsIndex.aspx>), the five regional commissions, and by the World Health Organization ([https://www.who.int/health-topics/ageing#tab=tab\\_1](https://www.who.int/health-topics/ageing#tab=tab_1)).

In 1982 at the first World Assembly on Ageing, the Vienna International Plan of Action on Ageing was adopted. In 1990, The General Assembly, in its resolution 45/106, designated 1 October as International Day for the Elderly (subsequently changed to International Day for Older Persons). In 1991, the General Assembly, in its resolution 46/91, adopted the Principles for Older Persons, encouraging Governments to incorporate five basic principles into their national programmes whenever possible - (independence, participation, care, self-fulfillment, dignity (<https://undocs.org/A/RES/46/91>)).

In 1992, in its resolution 47/5, the General Assembly adopted the Proclamation on Ageing (<https://undocs.org/A/RES/47/5>) and decided to observe 1999 as the International Year of Older Persons "in recognition of humanity's demographic coming of age and the promise it holds for maturing attitudes and capabilities in social, economic, cultural and spiritual undertakings, not least for global peace and development in the next century".

The Madrid International Plan of Action on Ageing was endorsed by the General Assembly in its resolution 57/2002. The MIPAA focused on three priority areas: older persons and development; advancing health and well-being into old age; and ensuring enabling and supportive environments.

**The above programmes of action and resolutions are "soft law" and are not binding.**

In response to General Assembly resolution 63/151 in 2008, by which it requested the Secretary-General to submit a report on implementation of that resolution, including information on the promotion and protection of human rights as they pertain to older persons, the Secretary-General submitted his report (A/64/127- <https://undocs.org/A/64/127>) in which he concluded that despite the existence of both policy and legal documents, the human rights of older persons have not been adequately promoted or protected.

The following year, the Secretary-General submitted another report (A/65/15 - <https://undocs.org/A/65/157>) that pointed out that civil society and public opinion have increasingly addressed the issue of older persons through a human rights perspective, advocating for a comprehensive international instrument to protect the rights of older persons. In a second report (A/65/158 - <https://undocs.org/A/65/158>) submitted to the General Assembly that year, the Secretary-General, in assessing implementation of MIPAA, also drew attention to empowering older persons and promoting their rights. The General Assembly, in its resolution

65/182 of 21 December 2010, took note of those two reports and decided to establish an open-ended working group (see below).

## **A. General Assembly resolutions concerning mandate of the Open-Ended Working Group on Ageing, adopted by the General Assembly.**

**2010** **A/RES/65/182:** Follow-up to the Second World Assembly on Ageing: <https://undocs.org/A/RES/65/182>

OP 28 –“**Decides to establish an open-ended working group**, open to all States Members of the United Nations, **for the purpose of strengthening the protection of the human rights of older persons** by considering the existing international framework of the human rights of older persons and identifying possible gaps and how best to address them, including by considering, as appropriate, the feasibility of further instruments and measures, and request the Secretary-General to provide all necessary support within existing resources for the duration of its mandate;”

**2011** **A/RES/66/127:** Follow-up to the Second World Assembly on Ageing: <https://undocs.org/A/RES/66/127>

OP 33 – “Invites States and relevant bodies and organizations of the United Nations system, including relevant human rights mandate holders and treaty bodies and the regional commissions, as well as inter-governmental and relevant non-governmental organizations with an interest in the matter, to continue to make contributions to the work entrusted to the Open-ended Working Group, as appropriate;”

**2012** **A/RES/67/143:** Follow-up to the Second World Assembly on Ageing: <https://undocs.org/A/RES/67/143>

OP 34: “Invites States and relevant bodies and organizations of the United Nations system, including relevant human rights mandate holders and treaty bodies and the regional commissions, as well as inter-governmental and relevant non-governmental organizations with an interest in the matter, to continue to make contributions to the work entrusted to the Working Group, as appropriate;”

**2012** **A/RES/67/139:** Towards a comprehensive and integral international legal instrument to promote and protect the rights and dignity of older persons: <https://undocs.org/A/RES/67/139>

OP.1: Decides that the Open-ended Working Group on Ageing, which shall be open to all Member States and observers of the United Nations shall, as part of its mandate and starting from its upcoming fourth session, to be held in 2013, consider proposals for an international legal instrument to promote and protect the rights and dignity of older persons, based on the holistic approach in the work carried out in the fields of social development, human rights and non-discrimination, as well as gender equality and the empowerment of women, and taking into account the inputs of the Human Rights Council, the reports of the Working Group and the recommendations of the Commission for Social Development and the Commission on the Status of Women, as well as the contributions from the second global review and appraisal of the Madrid International Plan of Action on Ageing, 2002, to be held during the fifty-first session of the Commission for Social Development;

OP 2: “Requests the Working Group to present to the General Assembly, **at the earliest possible date, a proposal containing, inter alia, the main elements that should be included in an international legal instrument to promote and protect the rights and dignity of older persons, which are not currently addressed sufficiently by existing mechanisms and therefore require further international protection;** “

OP.3: “*Invites* States and relevant bodies and organizations of the United Nations system, including relevant human rights mandate holders and treaty bodies and the regional commissions, as well as intergovernmental organizations with an interest in the matter, to make contributions to the work entrusted to the Working Group, as set out in paragraph 1 above, and invites relevant non-governmental organizations to contribute, as appropriate, on the basis of the modalities for participation agreed by the Working Group;”

OP. 4. *Requests* the Secretary-General, **with the support of the Office of the United Nations High Commissioner for Human Rights, the Division for Social Policy and Development of the Department of Economic and Social Affairs of the Secretariat and the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women)**, to submit to the Working Group by its fourth session and from within existing resources a compilation of existing international legal instruments, documents and programmes that directly or indirectly address the situation of older persons, including those of conferences, summits, meetings or international or regional seminars convened by the United Nations and intergovernmental and non-governmental organizations;”

**This resolution was controversial and was subject to a vote – 54 yes, 5 no (Canada, Israel, Seychelles, South Sudan, USA), and 118 abstentions. Nevertheless, the resolution stands as an adopted resolution of the General Assembly.**

**2013 A/RES/68/134:** Follow-up to the Second World Assembly on Ageing: <https://undocs.org/A/RES/68/134>

OP 45: “Invites States and relevant bodies and organizations of the United Nations system, including relevant human rights mandate holders and treaty bodies and the regional commissions, as well as intergovernmental and relevant non-governmental organizations with an interest in the matter, to continue to make contributions to the work entrusted to the Working Group, as appropriate;”

**2014 A/RES/69/146:** Follow-up to the Second World Assembly on Ageing: <https://undocs.org/A/RES/69/146>

OP 47: “Calls upon Member States to continue to contribute to the work of the Working Group, in particular **by presenting concrete proposals, practical measures, best practices and lessons learned** that will contribute to promoting and protecting the rights and dignity of older persons, in order to enable it to fulfil its mandate;”

OP.49: “*Invites* relevant bodies and organizations of the United Nations system, including relevant human rights mandate holders and treaty bodies and the regional commissions, as well as intergovernmental and relevant non-governmental organizations with an interest in the matter, to continue to make contributions to the work entrusted to the Working Group, as appropriate;”

**2015** No resolution on follow-up to the Second World Assembly on Ageing was adopted in 2015 (under Third Committee item for social development). However, under the Third Committee item for human rights, the following resolution was adopted:

**A/RES/70/164:** Measures to enhance the promotion and protection of the human rights and dignity of older persons: <https://undocs.org/A/RES/70/164>

OP. 8: “*Recommends* that States parties to existing international human rights instruments, where appropriate, address the situation of older persons more explicitly in their reports, and encourages treaty body monitoring mechanisms and special procedures mandate holders, in accordance with their mandates, to pay more attention to the situation of older persons in their dialogue with Member States, in their consideration of reports and in their country missions;”

OP.10: “*Invites* relevant bodies and organizations of the United Nations system, including relevant human rights mandate holders and treaty bodies and the regional commissions, as well as intergovernmental and relevant non-governmental organizations with an interest in the matter, to continue to make contributions to the work entrusted to the Open-ended Working Group, as appropriate;”

OP 11: “encourages Member states to continue to contribute to the work of the Open-ended Working Group, **in particular by presenting measures to enhance the promotion and protection of the human rights and dignity of older persons, such as best practices, lessons learned and possible content for a multilateral legal instrument, as appropriate, in order to enable it to fulfil its existing mandate;**”

**2016 A/RES/71/164:** Follow-up to the Second World Assembly on Ageing: <https://undocs.org/A/RES/71/164>

OP.6: “*Takes note* of the report of the Independent Expert issued during the thirtieth session of the **Human Rights Council**, [A/HRC/30/43] also takes note of the comprehensive report issued during the thirty-third session of the **Human Rights Council** [A/HRC/33/44], which was brought to the attention of the Open-ended Working Group on Ageing at its seventh session, and encourages Member States to be mindful of the recommendations contained therein;”

OP.19: “ Recommends that States parties to existing international human rights instruments, where appropriate, address the situation of older persons more explicitly in their reports, and encourages treaty body monitoring mechanisms and special procedures mandate holders, in accordance with their mandates, to pay more attention to the situation of older persons in their dialogue with Member States, in their consideration of reports or in their country missions;”

OP 45: “Encourages Member states to continue to contribute to the work of the Open-ended Working Group, in particular **by presenting measures to enhance the promotion and protection of the human rights and dignity of older persons, such as best practices, lessons learned and possible content for a multilateral legal instrument, as appropriate, in order to enable it to fulfil its existing mandate of strengthening the protection of the human rights of older persons and identifying possible gaps and how best to address them, including by considering, as appropriate, the feasibility of further instruments and measures.**”

**2017 A/RES/72/144:** Follow-up to the Second World Assembly on Ageing: <https://undocs.org/A/RES/72/144>

OP.23: “*Encourages* States parties to existing international human rights instruments, where appropriate, to address the situation of older persons more explicitly in their reports, and encourages treaty body monitoring mechanisms and special procedures mandate holders, in accordance with their mandates, to pay due regard to the situation of older persons in their dialogue with Member States, in their consideration of reports or in their country missions;”

OP.50: “Notes with appreciation the work of the Open-ended Working Group on Ageing, and recognizes the positive contributions of Member States, as well as relevant bodies and organizations of the United Nations system, including relevant human rights mandate holders and treaty bodies and the regional commissions, as well as national human rights institutions, intergovernmental and relevant non-governmental organizations with an interest in the matter and invited panellists, during the first eight working sessions of the Working Group, and invites Member States, as well as relevant bodies and organizations of the United Nations system and other relevant stakeholders, to continue to make contributions to the work entrusted to the Working Group, as appropriate;”

OP 51: “Encourages Member states to continue to contribute to the work of the Open-ended Working Group, in particular **by presenting measures to enhance the promotion and protection of the human rights and dignity of older persons, such as best practices, lessons learned and possible content for a multilateral legal instrument, as appropriate, in order to enable it to fulfil its existing mandate of strengthening the protection of the human rights of older persons and identifying possible gaps and how best to address them, including by considering, as appropriate, the feasibility of further instruments and measures.**”

**2018 A/RES/73/143:** Follow-up to the Second World Assembly on Ageing: <https://undocs.org/A/RES/73/143>

**OP.49:** “Notes with appreciation the work of the Open-ended Working Group on Ageing, and recognizes the positive contributions of Member States, as well as relevant bodies and organizations of the United Nations system, including relevant human rights mandate holders and treaty bodies and the regional commissions, as well as national human rights institutions, intergovernmental and relevant non-governmental organizations with an interest in the matter and

invited panellists, during the first nine working sessions of the Working Group, and invites Member States, as well as relevant bodies and organizations of the United Nations system and other relevant stakeholders, to continue to make contributions to the work entrusted to the Working Group, as appropriate; “

OP 50: “Encourages Member states to continue to contribute to the work of the Open-ended Working Group, in particular **by presenting measures to enhance the promotion and protection of the human rights and dignity of older persons, such as best practices, lessons learned and possible content for a multilateral legal instrument, as appropriate, in order to enable it to fulfil its existing mandate of strengthening the protection of the human rights of older persons and identifying possible gaps and how best to address them, including by considering, as appropriate, the feasibility of further instruments and measures.**”

This resolution also included the OEWGA on the Organization’s official calendar of conferences and meetings, with guaranteed interpretation services.

**2019 A/RES/74/125:** Follow-up to the Second World Assembly on Ageing: <https://undocs.org/A/RES/74/125>

OP.51: “Notes with appreciation the work of the Open-ended Working Group on Ageing, and recognizes the positive contributions of Member States, as well as relevant bodies and organizations of the United Nations system, including relevant human rights mandate holders and treaty bodies and the regional commissions, as well as national human rights institutions, intergovernmental and relevant non-governmental organizations with an interest in the matter and invited panellists, during the first 10 working sessions of the Working Group, and invites Member States, as well as relevant bodies and organizations of the United Nations system and other relevant stakeholders, to continue to make contributions to the work entrusted to the Working Group, as appropriate;”

OP.52: “*Encourages* Member States to continue to contribute to the work of the Open-ended Working Group on Ageing, in particular by **presenting measures to enhance the promotion and protection of the human rights and dignity of older persons, such as best practices, lessons learned and possible content for a multilateral legal instrument, as appropriate, in order to enable it to fulfil its existing mandate of strengthening the protection of the human rights of older persons by considering the existing international framework of the human rights of older persons and identifying possible gaps and how best to address them, including by considering, as appropriate, the feasibility of further instruments and measures, and by considering adopting at each session intergovernmentally negotiated recommendations to be presented for consideration by the General Assembly;**

OP.53: “*Requests* the Secretary-General to provide all necessary support to the Open-ended Working Group on Ageing for the organization of its eleventh session, of four days, in April 2020, with the provision of conference services, including interpretation services, and to include the annual sessions of the Working Group in the Organization’s calendar of conferences and meetings;

OP.54: “*Invites* the Independent Expert to address and engage in an interactive dialogue with the General Assembly at its seventy-fifth session under the agenda item entitled “Social development”;

**2020 A/RES/75/152, 2020** (no OEWGA meeting in 2020 because of COVID-19 – “technical carry-over resolution”). <https://undocs.org/A/RES/75/152>

OP.51: “*Notes with appreciation* the work of the Open-ended Working Group on Ageing, and recognizes the positive contributions of Member States, as well as relevant bodies and organizations of the United Nations system, including relevant human rights mandate holders and treaty bodies and the regional commissions, as well as national human rights institutions, intergovernmental and relevant non-governmental organizations with an interest in the matter and invited panellists, during the first 10 working sessions of the Working Group, and invites Member

States, as well as relevant bodies and organizations of the United Nations system and other relevant stakeholders, to continue to make contributions to the work entrusted to the Working Group, as appropriate;”

OP.52: “*Encourages* Member States to continue to contribute to the work of the Open-ended Working Group on Ageing, in particular by presenting measures to enhance the promotion and protection of the human rights and dignity of older persons, such as best practices, lessons learned and possible content for a multilateral legal instrument, as appropriate, in order to enable it to fulfil its existing mandate of strengthening the protection of the human rights of older persons by considering the existing international framework of the human rights of older persons and identifying possible gaps and how best to address them, including by considering, as appropriate, the feasibility of further instruments and measures, **and by considering adopting at each session intergovernmentally negotiated recommendations to be presented for consideration by the General Assembly.**”

OP.53: “*Requests* the Secretary-General to provide all necessary support to the Open-ended Working Group on Ageing for the organization of its eleventh session, of four days, in March–April 2021, with the provision of conference services, including interpretation services, and to include the annual sessions of the Working Group in the Organization’s calendar of conferences and meetings;”

OP.54: “*Invites the Independent Expert to address and engage in an interactive dialogue with the General Assembly at its seventy-sixth session under the agenda item entitled “Social development”*”;

**2021 A/RES/76/138:** Follow-up to the Second World Assembly on Ageing: <https://undocs.org/A/RES/76/138>

OP.9: “Takes note of the report of the Independent Expert issued in accordance with Human Rights Council resolution 42/12 and encourages Member States to be mindful of the recommendations contained therein”. <https://undocs.org/A/76/157>. (report on human rights of older women: the intersection between ageing and gender).

OP.57: “Notes with appreciation the work of the Open-ended Working Group on Ageing,<sup>21</sup> and recognizes the positive contributions of Member States, as well as relevant bodies and organizations of the United Nations system, including relevant human rights mandate holders and treaty bodies and the regional commissions, as well as national human rights institutions, intergovernmental and relevant non-governmental organizations with an interest in the matter and invited panellists, during the first 11 working sessions of the Working Group, and invites Member States, as well as relevant bodies and organizations of the United Nations system and other relevant stakeholders, to continue to make contributions to the work entrusted to the Working Group, as appropriate;”

OP.58. “Encourages Member States to continue to contribute to the work of the Open-ended Working Group on Ageing, in particular by presenting measures to enhance the promotion and protection of the human rights and dignity of older persons, such as best practices, lessons learned and possible content for a multilateral legal instrument, as appropriate, in order to enable it to fulfil its existing mandate of strengthening the protection of the human rights of older persons by considering the existing international framework of the human rights of older persons and identifying possible gaps and how best to address them, including by considering, as appropriate, the feasibility of further instruments and measures, and **by considering adopting at each session intergovernmentally negotiated recommendations to be presented for consideration by the General Assembly.**”

## B. HUMAN RIGHTS COUNCIL RESOLUTIONS CONCERNING OLDER PERSONS

The Human Rights Council has adopted a number of specific resolutions concerning older persons over the years. It also recommended the appointment of an Independent Expert on the enjoyment of all human rights by older persons.

2012 **A/HRC/RES/21/23** The human rights of older persons. (<https://undocs.org/A/HRC/RES/21/23>)

The HRC recalled the establishment of the Open-Ended Working Group on Ageing and requested the Office of the High Commissioner for Human Rights (OHCHR) to organize an intersessional public consultation on the promotion and protection of the human rights of older persons.

2013 **A/HRC/RES/24/20** The human rights of older persons (<https://undocs.org/A/HRC/RES/24/20>)

The HRC appointed an Independent Expert on the enjoyment of all human persons by older persons for a period of 3 years.

2016 **A/HRC/RES/33/5** The human rights of older persons (<https://undocs.org/A/HRC/RES/33/5>)

The HRC extended the mandate of the Independent Expert for an additional 3 years.

2017 **A/HRC/RES/35/13** Protection of the family: role of the family in supporting the protection and promotion of human rights of older persons. (<https://undocs.org/A/HRC/RES/35/13>)

2018 **A/HRC/RES/39/18** Enhancement of technical cooperation and capacity-building in the field of human rights (<https://undocs.org/A/HRC/RES/39/18>)

The HRC requested the OHCHR to prepare a report on activities undertaken by the Office and relevant United Nations country teams and agencies, and regional organizations to support States' efforts to promote and protect the human rights of older persons and their autonomy and independence, and address implementation gaps in national legislation, policies and programmes, including where applicable those relating to the Sustainable Development Goals, income security, the promotion of active and healthy ageing, the use of assistive technology, access to information and lifelong learning, combating all forms of discrimination against older persons, paying particular attention to older women and supporting the full integration of older persons in society and access to care, health and support services for older persons in their communities. The report submitted to the HRC - <https://undocs.org/A/HRC/41/32>

2019 **A/HRC/RES/42/12** The human rights of older persons (<https://undocs.org/A/HRC/RES/42/12>)

The HRC extended the mandate of the Independent Expert for an additional 3 years. The HRC also requested that in addition to reporting to it regularly, the IE should also report regularly to the General Assembly.

2020 **A/HRC/RES/44/7** Human rights and climate change (<https://undocs.org/A/HRC/RES/44/7>)

The HRC called attention to the rights of older persons who are disproportionately affected by the negative impact of climate change. OHCHR submitted a report pursuant to that resolution - <https://undocs.org/A/HRC/47/46>

2021 **A/HRC/RES/48/3** Human rights of older persons (<https://undocs.org/A/HRC/RES/48/3>)

The HRC called attention to a number of issues concerning older persons, including ageism, age discrimination, violence and abuse, social protection, food and housing, right to work, access to justice, new technologies, life-long learning, health support long-term care and palliative care, unpaid care work. The HRC took note of the report of the Independent Expert on ageism (<https://undocs.org/A/HRC/48/53>). It also requested that OHCHR prepare a report on normative

standards and obligations under international law in relation to the promotion and protection of the human rights of older persons and organize a multistakeholder meeting to discuss that report.

It should be noted that older persons are also sometimes addressed by other Independent Experts and Special Rapporteurs on topics such as human rights and extreme poverty, right of everyone to the enjoyment of the highest attainable standard of physical and mental health, rights of persons with disabilities.

## C. OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS

In 2012, the United Nations High Commissioner for Human Rights submitted a report (<https://undocs.org/E/2012/51>) to the Economic and Social Council concerning the human rights situation of older persons, including through an analysis of existing international instruments and **gaps in the protection regime**. The High Commissioner concluded that “current arrangements at the national and international level to protect the human rights of older persons are inadequate. Dedicated measures to strengthen the international protection regime for older persons are called for without further delay. Member States should explore various measures, including a new dedicated international instrument, a new special procedure mandate under the auspices of the Human rights Council, and mainstreaming the human rights of older persons throughout existing mechanisms, policies and programmes.”

In 2021, The United Nations High Commissioner for Human Rights made available its follow-up analytical outcome study on the normative standards in the international human rights law in relation to older persons to the Open-ended Working Group on Ageing at its 11<sup>th</sup> session, but it was not discussed. Austria and Germany requested that it be in the programme of work for OEWGA 12, 11-4 April 2022. <https://social.un.org/ageing-working-group/documents/eleveth/OHCHR%20HROP%20working%20paper%2022%20Mar%202021.pdf>

Also in 2021, pursuant to HRC resolution A/HRC/RES/48/3 (see above), the OHCHR was requested to report on normative standards and obligations under international law in relation to the promotion and protection of the human rights of older persons and organize a multistakeholder meeting to discuss that report.

## INDEPENDENT EXPERT

The Human Rights Council, in 2013, having taken note of the report of the Secretary-General (A/67/188) which, inter alia, explored the key challenges faced by older persons in the enjoyment of their human rights, the reports of the High Commissioner for Human Rights (E/2012/51 – see above) and A/HRC/24/25 (<https://undocs.org/A/HRC/24/25>) which concluded that a number of human rights issues that are particularly relevant to older persons have not been given sufficient attention, **decided, in 2013, to appoint an independent expert on the enjoyment of all human rights by older persons (HRC resolution 24/20 - <https://undocs.org/A/HRC/RES/24/20>)**. The Human Rights Council requested the Secretary-General to ensure that the reports of the Independent Expert are brought to the attention of the OEWGA.

The first Independent Expert was Rosa Kornfeld Matte (Chile) and her three-year term began in 2014, which was renewed, ending in 2019 after presentation of her final report of her second term.

The second Independent expert is Claudia Mahler (Austria). Her three-year term began in 2020. In its resolution A/HRC/RES/42/12 (<https://undocs.org/A/HRC/RES/42/12>) extending the mandate of the IE, the Human Rights Council also requested that in addition to reporting to it regularly, the IE should also report regularly to the General Assembly, in addition to submitting reports to the OEWGA.

**Reports of the Independent Expert are listed in annex IV.**

## D. OEWGA's KEY DISCUSSIONS

The OEWGA, from its inception, convened panels to discuss ageing issues – **see annex I**. Each of its reports includes a Chair's summary (not a negotiated text).

- 2011** At its first session (<https://undocs.org/A/AC.278/2011/4>), panel discussions addressed:
- setting the scene: existing international framework on the human rights of older persons
  - setting the scene: existing regional framework or mechanisms on the human rights of older persons
  - identification of existing gaps at the international level and measures to address them.

- At its second session (<https://undocs.org/A/AC.278/2011/5>) panel discussions addressed:
- discrimination and multiple discrimination
  - right to health of older persons
  - violence and abuse against older persons
  - social protection and older persons
  - age and social exclusion of older persons
  - identification of existing gaps at the international level and measures to address them

- 2012** At its third session (<https://undocs.org/A/AC.278/2012/1>) panel discussions addressed:
- age discrimination
  - autonomy, independent living and health care
  - life in dignity, social security and access to resources
  - abuse and violence
  - access to justice

- 2013** At its fourth session (<https://undocs.org/A/AC.278/2013/2>) panel discussions addressed:
- promotion and protection of the human rights and dignity of older persons: contributions from the second global review and appraisal of MIPAA
  - update on multilateral processes
  - social security and the right to health
  - discrimination and access to work

Pursuant to General Assembly resolution 67/139 of 20 December 2012, the OEWGA at its fourth session received proposals for possible “**main elements**” that could be included in a convention, compiled on the basis of a survey conducted among Member States, civil society organizations and organizations of the United Nations system. **No agreement was reached on the way forward.** See **annex II** for list of possible elements for a convention. The OEWGA also received a presentation from the OHCHR on the compilation of existing international legal instruments, documents and programmes that directly or indirectly address the situation of older persons.

Announcement was made of the formation of a Group of Friends of Older Persons (Member State membership).

- 2014** At its 5<sup>th</sup> session (<https://undocs.org/A/AC.278/2014/2>), the OEWGA heard presentations from the Independent Expert on the enjoyment of all human rights by older persons and from the Special Adviser to the Secretary-General on older persons and post-2015 agenda. Panel discussions addressed:
- human rights and care of older persons
  - violence and abuse against older persons
  - planning for end-of-life care: legal and financial issues
  - how to strengthen the rights of older persons through enhanced implementation of MIPAA

- 2015** At its 6<sup>th</sup> session (<https://undocs.org/A/AC.278/2015/2>) the OEWGA heard a presentation from the Independent Expert. Panel discussions addressed:
- recent policy developments and initiatives concerning the human rights of older persons
  - recent legislative and legal developments and challenges in the human rights of older persons

- c. follow-up to General Assembly resolution 69/146: proposals and measures, best practices and lessons learned that will contribute to promoting and protecting the rights and dignity of older persons
- d. older persons and human rights in the post-2015 development agenda.

**The Chair of the OEWGA invited Member States to start working on the text of a legal instrument.**

- 2016** At the 7<sup>th</sup> session (<https://undocs.org/A/AC.278/2016/2>), the OEWGA decided, pursuant to General Assembly resolution 70/163 of 17 December 2015 concerning national institutions for the promotion and protection of human rights, to invite national human rights institutions compliant with the Paris Principles (<https://undocs.org/A/RES/48/134>) to participate in its work.

The OEWGA heard a presentation from the Independent Expert. Panel discussions addressed:

- a. recent regional developments and initiatives concerning the human rights of older persons
- b. human rights dimensions concerning older persons in recent policy developments and initiatives in multilateral processes
- c. follow-up to General Assembly resolution 70/164 (<https://undocs.org/A/RES/70/164>) on measures to enhance the promotion and protection of the human rights and dignity of older persons: best practices, lessons learned, possible content for a multilateral legal instrument and identification of areas and issues where further protection and action is needed.

At the same session, the Chair listed, on the basis of discussions, **14 issues** that “need to be better addressed by the international community in order to allow older persons to fully enjoy their human rights.” **See annex III.** The two focus areas selected for in-depth discussion by the OEWGA at its 8<sup>th</sup> session in 2017 were:

- a. equality and non-discrimination
- b. violence, neglect, and abuse

Member States, National Human Rights Institutes and NGOs were requested to submit inputs for those discussions, on the basis of specific guiding questions to be provided.

- 2017** At the 8<sup>th</sup> session (<https://undocs.org/A/AC.278/2017/2>) the OEWGA discussed equality and non-discrimination; and violence, neglect and abuse. Syntheses of the submissions were prepared by the Secretariat (UN/DESA/ Programme on Ageing Unit and OHCHR). Panellists were invited to discuss the issues.

It was decided that the two focus areas for discussion by the OEWGA at its 9<sup>th</sup> session would be:

- a. autonomy and independence
- b. long-term and palliative care

It was also decided that in addition to requesting substantive inputs for discussion, the Bureau would also call for “substantive inputs in the form of **normative content** for the development of a possible international standard on protection of the rights of older people to equality and non-discrimination and the right to live free from violence, neglect and abuse” for discussion.

- 2018** At the 9<sup>th</sup> session of the OEWGA (<https://undocs.org/A/AC.278/2018/2>) panelists were again invited to discuss the two selected focus areas but there was **no panel convened to discuss the normative aspects** of equality and non-discrimination, and violence, neglect and abuse (discussed at 8<sup>th</sup> session).

The OEWGA also decided on the next two issues to be discussed at its 10<sup>th</sup> session in 2019, namely:

- a. Social protection and social security (including social protection floors)

b. Education, training, lifelong learning and capacity-building

At the same session, the Chair suggested that the OEWGA consider at its next session “***the possibility of concluding each session with concrete outcomes*** in order to capitalize on our deliberations and reflect our agreements with regard to each area affecting the enjoyment of human rights by older persons. Such outcomes could take many forms, such as agreed conclusions or decisions of the Working Group, which should be negotiated between governments and reflect any common points identified in the focus areas examined from a normative perspective.”

**2019** At the 10<sup>th</sup> session (<https://undocs.org/A/AC.278/2019/2>) documents on the syntheses of inputs received on the two “focus areas” as well as the “Normative inputs” were:

- A/AC.278/2019/CRP.2 (social protection and social security (including social protection floors).
- A/AC.278/2019/CRP.3 (education, training, life-long learning and capacity-building)
- A/AC.278/2019/CRP.4 (Normative content for the development of a possible international standard on the focus areas “autonomy and independence” and “long-term and palliative care”).

See above reference to General Assembly resolution A/RES/74/125 in 2019, in which it requested the OEWGA **to consider adopting at each session intergovernmentally negotiated recommendations to be presented for consideration by the General Assembly**

**2020** The 11<sup>th</sup> session of OEWGA did not meet because of COVID-19. However, informal consultations were held on proposed “intergovernmentally negotiated recommendations” but no agreement was reached. Some Member States insisted on a legal interpretation of the meaning of “to consider adopting at each session intergovernmentally negotiated recommendations” in terms of just discussing whether or not recommendations can be formulated for adoption, rather than actually adopting recommendations. The United Nations Legal Counsel provided a list of examples where “to consider adopting” referred to adoption of recommendations/decisions, certain measures etc., and not just considering whether or not recommendations can be formulated for adoption. The informal consultations did not proceed. No decision by the OEWGA in formal session has been taken on whether or not to proceed with consideration of intergovernmentally negotiated recommendations.

**2021** The 11<sup>th</sup> session was a virtual meeting. documents on the synthesis of inputs received on the two “focus areas” as well as the “normative inputs” were:

- A/AC.278/2020/CRP.2 (Normative content for the development of a possible international standard on the focus areas “education, training, lifelong learning and capacity building” and “social protection and social security (including social protections floors)”)
- A/AC.278/2020/CRP.3 (right to work and access to the labour market)
- A/AC.278/2020/CRP.4 (access to justice)
- Update to the 2012 Analytical Outcome study on the normative standards in international human rights law in relation to older persons (Working paper prepared by the Office of the High Commissioner for Human Rights, March 2021) was also made available to OEWGA 11 <https://social.un.org/ageing-working-group/documents/eleveth/OHCHR%20HROP%20working%20paper%2022%20Mar%202021.pdf> **It was not discussed.** Austria and Germany requested that it be discussed at OEWGA12 (11-14 April 2022). Different views were expressed, but no decision was taken.
- The Chair’s summary referred to divergent views on Argentina’s proposal to convene an intersessional “contact group” to continue discussions, but no decision one way or the other was recorded.
- The Chair’s Summary also made a reference to the “divergent views” concerning the General Assembly’s request to the OEWGA to consider adopting at each session intergovernmentally negotiated recommendations. But there was no decision recorded as to whether the OEWGA would comply with the General Assembly’s request or not.

\* \* \* \* \*

Website for all sessions of the OEWGA and all documentation: <https://social.un.org/ageing-working-group/>

## NOTES:

As at January 2022, the OEWGA has not complied with any of the General Assembly's numerous requests for proposals containing, inter alia, the main elements that should be included in an international legal instrument, nor concrete proposals, practical measures, best practices and lessons learned, nor "intergovernmentally negotiated recommendations". See resolutions listed in Section A above.

It should also be noted that this document does not include listing of documents submitted by Member States and civil society to the discussions of each session of the OEWGA. As at March 2021, close to 800 documents have been submitted to the OEWGA. Such information can be found: <https://social.un.org/ageing-working-group/>

Other documents and information on the work of the United Nations Department of Economic and Social Affairs/Programme on Ageing Unit in ageing issues can be found:

<https://www.un.org/development/desa/ageing/>

For all documents and information on the work of OHCHR on human rights of older persons, see:

<https://www.ohchr.org/EN/Issues/OlderPersons/Pages/OlderPersonsIndex.aspx>

Frances Zainoeddin  
January 2022

## Annex 1

### DISCUSSIONS AT THE OEWGA

Setting the scene: <b>existing international framework</b> on the human rights of older persons	1 <sup>st</sup> session
Setting the scene: <b>existing regional framework</b> or mechanisms on the human rights of older persons	1 <sup>st</sup> session
Identification of <b>existing gaps at the international level</b> and measures to address them	1 <sup>st</sup> session
<b>Age and social exclusion of older persons</b>	2 <sup>nd</sup> session
<b>Identification of existing gaps at the international level and measures to address them</b>	2 <sup>nd</sup> session
<b>Violence and abuse</b> against older persons	2 <sup>nd</sup> , 3 <sup>rd</sup> , 5 <sup>th</sup> , 8 <sup>th</sup> , 9 <sup>th</sup> sessions
<b>Social security, social protection and the right to health</b>	2 <sup>nd</sup> , 4 <sup>th</sup> , 10 <sup>th</sup> sessions
<b>Age discrimination</b>	2 <sup>nd</sup> , 3 <sup>rd</sup> , 8 <sup>th</sup> sessions
<b>Autonomy, independent living and health care</b>	3 <sup>rd</sup> , 9 <sup>th</sup> , 10 <sup>th</sup> sessions
<b>Life in dignity, social dignity and access to resources</b>	3 <sup>rd</sup> session
<b>Access to justice</b>	3 <sup>rd</sup> session, 11 <sup>th</sup> session
Human rights dimensions concerning older persons in recent policy developments and initiatives in <b>multilateral processes</b>	4 <sup>th</sup> session, 7 <sup>th</sup> session,
How to strengthen the rights of older persons through enhanced implementation of <b>MIPAA</b>	4 <sup>th</sup> , 5 <sup>th</sup> sessions
<b>Human rights and care</b> of older persons	5 <sup>th</sup> , 9 <sup>th</sup> , sessions
<b>Planning for end-of-life care:</b> legal and financial issues	5 <sup>th</sup> , 9 <sup>th</sup> sessions
<b>Regional developments and initiatives</b> concerning the human rights of older persons	6 <sup>th</sup> session, 7 <sup>th</sup> session,
<b>Recent legislative and legal developments</b> and challenges in the human rights of older persons	6 <sup>th</sup> session

<b>Follow-up to resolution 69/146:</b> Proposals and measures, best practices and lessons learned that will contribute to promoting and protecting the rights and dignity of older persons	6 <sup>th</sup> session
Older persons and human rights in the <b>post 2015 development agenda</b>	6 <sup>th</sup> session
Follow-up to <b>resolution 70/164</b> on measures to enhance the promotion and protection of the human rights and dignity of older persons: best practices, lessons learned, possible content for a multilateral legal instrument and identification of areas and issues where further protection and action is needed.	7 <sup>th</sup> session
<b>Equality and non-discrimination</b>	8 <sup>th</sup> , 9 <sup>th</sup> sessions
<b>Long-term and palliative care</b>	9 <sup>th</sup> , 10 <sup>th</sup> sessions
<b>Life-long learning</b>	10 <sup>th</sup> session
<b>Right to work</b>	11 <sup>th</sup> session
<b>Economic security</b>	12 <sup>th</sup> session
<b>Contribution of older persons to sustainable development</b>	12 <sup>th</sup> session
Interactive dialogue with <b>Independent Expert (Rosa Kornfeld Matte)</b> <ul style="list-style-type: none"> <li>• Review of Georgia, Mauritius, Montenegro, Namibia, Singapore, Slovenia</li> <li>• Specific issues addressed include: social exclusion; rights to health, housing, independent living, social protection, robots and rights, equality and non-discrimination, justice, life-long learning, work, autonomy and care, protection from violence and abuse.</li> </ul>	5 <sup>th</sup> , 6 <sup>th</sup> , 7 <sup>th</sup> , 8 <sup>th</sup> , 9 <sup>th</sup> sessions,
Interactive dialogue with <b>Independent Expert (Claudia Mahler)</b> <ul style="list-style-type: none"> <li>• Data gap; impact of Covid-19</li> <li>• Older women; ageism</li> </ul>	10 <sup>th</sup> , 11 <sup>th</sup> sessions

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## Annex II “MAIN ELEMENTS”

(In response to **General Assembly resolution 67/139, of 20 December 2012**, in which the General Assembly requested the Working Group to present to the General Assembly, at the earliest possible date, a proposal containing, inter alia, the main elements that should be included in an international legal instrument to promote and protect the rights and dignity of older persons, which are not currently addressed sufficiently by existing mechanisms and therefore require further international protection”, **31 Member States, 36 civil society organizations and 4 organizations of the United Nations responded to GA request. Responses were made available at OEWG, 4<sup>th</sup> session, held 12-15 August 2013 – see A/AC.278/2013/2, page 17. (<http://social.un.org/ageing-working-group/fourthsession.shtml>)**)

### 1. **K9g -General principles**

- Dignity
- Independence
- Autonomy
- Equity
- Gender equality
- Non-discrimination
- Accessibility
- Empowerment
- Self-realization
- Intergenerational solidarity
- Respect for diversity and difference
- Participation and integration

### 2. **Economic empowerment of older persons**

- Right to an adequate standard of living, including food, water, housing and clothing
- Right to access to work
- Right to social protection, financial security and social assistance
- Right to access to credit, establishment of business, income generating activities
- Right to ownership of property
- Right to education and training

### 3. **Social and civic participation**

- Right to accessibility
- Right to information
- Right to legal services
- Right to judicial protection and equality before the law
- Right to public and political life
- Right to social and cultural life/recreation and sport
- Right to freedom of association

### 4. **Health**

- Right to access care and long-term care
- Right to health care and mental health
- Right to vital drugs
- Right to social services

### 5. **Dignity**

- Right to respect for privacy
- Right to freedom from abuse and violence
- Right to physical security
- Right to end of life, to life and dignified death

### 6. **Diversity**

- Rights of subgroups such as indigenous people, prisoners, disabled older persons, older women and migrants

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## **Annex III: List of specific issues for discussion (OEWGA report on its 7<sup>th</sup> session in 2016)**

**(After the topics are discussed, they are also addressed in the following year in the context of “normative elements” for the development of a possible international standard.)**

- 2017** Equality and non-discrimination (discrimination on the basis of age)  
Neglect, violence and abuse (ageism)
- 2018** Autonomy and independence  
Long-term and palliative care
- 2019** Social protection and social security (including social protection floors)  
Education, training, lifelong learning and capacity-building
- 2020** No meeting because of Covid-19 pandemic
- 2021** Right to work and access to the labour market  
Access to justice
- 2022** Economic Security  
Contribution of older persons to sustainable development

### Remaining topics

- Accessibility, infrastructure and habitat (transport, housing and access)
- Right to health and access to health services
- Participation in the public life and in decision-making processes
- Social inclusion

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## Annex IV. Reports of the Independent Experts

### A. Reports of the Independent Experts:

<https://www.ohchr.org/EN/Issues/OlderPersons/IE/Pages/Reports.aspx>

#### a. Rosa Kornfeld-Matte, May 2014 - May 2020

- **2014** Enjoyment of all human rights by older persons (A/HRC/27/46)
- **2015** Autonomy and care of older person (A/HRC/30/43) and addenda 1-3 on countries visited : Mauritius, Austria, Slovenia)
- **2016** Comprehensive report (A/HRC/33/44)
- **2017** Robots and rights: the impact of automation o the human rights of older persons (A/HRC/36/48) and addenda 1-2 on countries visited: Singapore, Namibia)
- **2018** Social exclusion: concepts, manifestations and the impact on the human rights of older persons (A/HRC/39/50) and addenda 1-2 on countries visited: Georgia, Montenegro)
- **2019** Human rights of older persons in emergency situations (A/HRC/42/43 and addenda 1-2 on countries visited: Uruguay and Mozambique.
- **2020** Countries visited: China and New Zealand (A/45/14/Add. 1 and 2)

#### b. Claudia Mahler, 20 May 20, 2020 – May 2023)

- **2020** Human rights of older persons: the data gap conundrum (<https://undocs.org/A/HRC/45/14>); Impact of the coronavirus disease (COVID-19) on the enjoyment of all human rights by older persons (<https://undocs.org/A/75/205>).
- **2021** Human rights of older women (<https://undocs.org/A/76/157>); Ageism (<https://undocs.org/A/HRC/48/53>).

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